

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

SATURDAY, THE 1ST DECEMBER 2007 / 10TH AGRAHAYANA 1929

Crl.MC.No. 3598 of 2007

**CP.174/2007 OF JUDL.MAGISTRATE OF FIRST CLASS COURT, ADOOR
AND FIR 522/2007 OF PANDALAM PLICE STATION)**

PETITIONER: PETITIONERS/ACCUSED 1 & 3

- 1. VALSALA, AGED 52 YEARS, D/O. RAJAMMA,
PUSHPAVADIYIL, KURIYANIPALLY, ULLANNUR MURI,
KULANADA VILLAGE, PATHANAMTHITTA DISTRICT.**
- 2. RATHEESH, AGED 30 YEARS, S/O.
KAMALASANAN, PUSHPAVADIYIL, KURIYANIPALLY,
ULLANNUR MURI, KULANADA VILLAGE,
PATHANAMTHITTA DISTRICT.**

**BY ADV. SRI. K.SHAJ
SRI.B.BALRAJ
SRI.SAJJU.S**

RESPONDENTS:

**STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.**

BY

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 01/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

R. BASANT, J.

Crl.M.C. No. 3598 OF 2007

Dated this the 1st day of December, 2007

ORDER

The petitioners face indictment in a prosecution under the Kerala Abkari Act. Final report has already been filed. Cognizance has been taken. Committal proceedings has been registered. Coercive processes have been issued against the petitioners. The petitioners find such processes chasing them.

2. According to the petitioners, they are absolutely innocent. Their absence earlier was not wilful or deliberate. They have no knowledge about the pendency of the proceedings. They are willing to surrender before the learned Magistrate and seek regular bail. But they apprehend that their applications for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the

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petitioners have come to this Court for a direction to the learned Magistrate to release them on bail when they appear before the learned Magistrate.

3. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioners' applications for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioners surrender before the learned Magistrate and seek bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself. Needless to

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further say that their applications for regular bail will have to be considered by the learned Magistrate in the light of the decision in **Sukumari v. State of Kerala** (2001 (1) KLT 22).

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge